



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 22, 2008

John H. Davidson
31275 Saginaw Avenue
Vermillion, SD 57069-6803

Dear Mr. Davidson:

Thank you for your letter asking the Department of Environment and Natural Resources (DENR) to take measures to ensure the public has access to permitting processes for the proposed Hyperion Energy Center. As you know, both state and federal laws provide that environmental permitting processes include public notices, opportunities for public comment, and opportunities to join formal permit proceedings as a party. However, you are suggesting DENR go beyond those processes for permit applications from Hyperion.

To a large extent, the ever-expanding use of the internet has allowed some of that to already occur for all permit applications submitted to DENR. For example, rather than simply publishing a public notice in a local newspaper as required by state and federal rules, DENR now posts most of its public notices online as well. Therefore, in addition to the newspaper notice, public notices for permit applications can be found on DENR's website as follows:

- a. air quality permit public notices along with the draft permit and DENR's statement of basis are posted at <http://www.state.sd.us/denr/DES/AirQuality/aapubnot.htm>
- b. water right notices are posted at http://www.state.sd.us/denr/des/waterrights/public_notice.htm, and
- c. surface water discharge permit public notices along with the draft permit and statement of basis are posted at <http://www.state.sd.us/denr/DES/Surfacewater/PublicNotices/PNList.htm>.

However, in your letter, you asked that DENR make information about the permitting process for Hyperion available before we publish a public notice. To comply with your request, DENR will implement the following three measures. First, DENR's environmental permit files here in Pierre are open for public inspection during normal business hours, and that includes permit files for Hyperion. In addition, people can have copies of materials in those files made in accordance with our rules entitled "Fees for Records Reproduction" (copy enclosed).

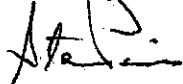
The second measure is specific to permit applications from Hyperion. DENR and the Bureau of Information and Telecommunications have worked together the last several weeks to develop the next level of using the internet to make Hyperion's permit applications available to the public.

Working together, we have designed a web page specifically dedicated to "Hyperion Energy Center - Environmental Permits" under the "New" heading on DENR's website at <http://www.state.sd.us/denr/denr.html> (copy enclosed). Here you will find Hyperion's application for a Prevention of Significant Deterioration air quality permit, air quality modeling files, Hyperion Correspondence, DENR Correspondence, Public Correspondence, and DENR Updates. We will do our best to keep this internet file current, so it will contain the latest information and be as "real-time" as possible.

Third, while the web page described above makes all of this information available to most people in their homes, we also recognize there may be some people who do not have ready access to the internet. Therefore, to provide a hard copy of Hyperion permit files closer to you and others in the area, DENR will maintain a second hard copy at its Geological Survey Program offices which are located on the third floor of the Akeley-Lawrence Science Center on the University of South Dakota campus in Vermillion. Those files can be viewed during normal business hours.

It is hoped you find these extra efforts to help keep you and others informed about permit applications submitted to DENR by Hyperion useful. Thank you again for your letter.

Sincerely,



Steven M. Pirner, PE
Secretary

cc: Governor M. Michael Rounds
Otto Doll, Commissioner, Bureau of Information and Technology
Richard Benda, Secretary, Department of Tourism and State Development
Robert E. Roberts, EPA Region 8 Administrator

CHAPTER 74:08:01

FEEs FOR RECORDS REPRODUCTION

Section

74:08:01:01	Fees for photocopies.
74:08:01:02	Oversized documents, computer media, and nondocumentary records.
74:08:01:03	Waiver of fee for media.
74:08:01:04	Waiver of fee for public interest groups.
74:08:01:05	Waiver of fee for educational organizations.
74:08:01:06	Response to requests for reproduction of public records.
74:08:01:07	Cumulative requests.

74:08:01:01. Fees for photocopies. The fee for letter- or legal-sized photocopies of public records requested from the department of environment and natural resources under SDCL chapter 1-27 or SDCL 1-26-2 is 20 cents a page. The department shall impose no fee for the first ten pages of letter- or legal-sized photocopies requested by any person. This fee does not apply to requests for public records made by the state of South Dakota or any of its political subdivisions.

Unless otherwise provided for, copies of printed materials prepared by the department for public distribution or materials distributed in furtherance of department grant activities are free of charge.

Source: 19 SDR 21, effective August 16, 1992.

General Authority: SDCL 1-40-31.

Law Implemented: SDCL 1-40-31.

74:08:01:02. Oversized documents, computer media, and nondocumentary records. The fee for reproducing an oversized document or computer data base requested from the department under SDCL chapter 1-27 or SDCL 1-26-2 is the actual cost of reproduction. An oversized document is a document larger than 11 inches by 14 inches. The actual cost of reproduction includes materials, copier or computer time, and staff time associated with reproducing the record.

Nondocumentary records, such as soil samples, models, and cores, shall be depicted photographically, and a short narrative summary of the record shall be placed on the back of the photograph. The fee for providing a photograph of a nondocumentary record is the actual cost of reproducing the photograph, including film, paper, developing, and staff time associated with reproducing the record. The department shall make the original of any nondocumentary record available for public inspection during normal business hours.

Source: 19 SDR 21, effective August 16, 1992.

General Authority: SDCL 1-40-31.

Law Implemented: SDCL 1-40-31.

74:08:01:03. Waiver of fee for media. The department shall waive the fee established in § 74:08:01:01 for the first 100 pages of photocopies of public records requested by a representative of the press or communications media.

Source: 19 SDR 21, effective August 16, 1992.

General Authority: SDCL 1-40-31.

Law Implemented: SDCL 1-40-31.

74:08:01:04. Waiver of fee for public interest groups. The department shall waive the fee established in § 74:08:01:01 for the first 250 pages of photocopies of public records requested by a representative of a public interest group organized as a nonprofit corporation under SDCL chapter 47-22 for the purpose of promoting the public interest. The department shall waive the fee for an additional 250 pages of photocopies requested by a representative of a public interest group for each contested case before the department or its boards in which the group is participating.

Source: 19 SDR 21, effective August 16, 1992.

General Authority: SDCL 1-40-31.

Law Implemented: SDCL 1-40-31.

74:08:01:05. Waiver of fee for educational organizations. The department shall waive the fee established in § 74:08:01:01 for the first 100 pages of photocopies of public records requested by a representative of an educational organization recognized as tax exempt under § 501(c) of the United States Internal Revenue Code as amended to January 1, 1992.

Source: 19 SDR 21, effective August 16, 1992.

General Authority: SDCL 1-40-31.

Law Implemented: SDCL 1-40-31.

74:08:01:06. Response to requests for reproduction of public records. The department shall respond to all requests for public records within 20 working days. If necessary, the department's response may indicate an additional 20 working days is required to fulfill the request. If the request for records exceeds 1,000 pages, the department shall provide as much of the request as possible within 40 working days, and may complete the request in an additional 20 working days.

Source: 19 SDR 21, effective August 16, 1992.

General Authority: SDCL 1-40-31.

Law Implemented: SDCL 1-40-31.

74:08:01:07. Cumulative requests. In determining waiver of fees, all requests for records reproduction by a requester within a fiscal year, July 1 to June 30, are cumulative.

Source: 19 SDR 21, effective August 16, 1992.

General Authority: SDCL 1-40-31.

Law Implemented: SDCL 1-40-31.



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Hyperion Energy Center - Environmental Permits

Hyperion Energy Center - Environmental Permits

Hyperion is a Dallas-based oil company that is considering plans for building a new energy center that consists of an oil refinery and power plant (see Hyperion's web site at <http://www.hyperionec.com>). Hyperion officials have indicated that an area in Union County is one of several potential locations they are considering and have started submitting applications for environmental permits for that site (see Hyperion's South Dakota Files web site at www.hyperionec.com/cms/Files/)

To help disseminate this environmental permitting information, DENR will post permit applications submitted by Hyperion on this page as well as providing updates regarding the status of DENR reviews of the applications. If people want to provide comments on permit applications prior to DENR completing its review, those comments can be either e-mailed to [DENR Internet](#) or mailed to DENR at 523 E. Capitol, Pierre, SD 57501. Any comments submitted will become part of the permit file and will be considered by DENR staff who are involved in the review of permit applications and drafting of permits.

1. Hyperion's Air Quality Permit

- A. [Modeling Protocol](#) (889 KB pdf) - October 9, 2007
[DENR's Modeling Protocol Response to Hyperion](#) (470 KB pdf) - 2007
- B. [Prevention of Significant Deterioration Application PSD Application](#) (11.7 MB pdf) - December 20, 2007
- C. Modeling **See footnote below
[AERMET Modeling Data](#) (3.8 MB zip) - December 20, 2007
[AERMOD Modeling Data](#) (40.5 MB zip) - December 20, 2007
[Visibility Modeling Data](#) (24 KB zip) - December 20, 2007
 **The modeling data consists of several files that are inputs and outputs from the modeling software. These files have been combined into one zip file in order to save space. These are large files and may take a long time to download. If you are using Windows XP, Microsoft included an unzip program as part of XP, so just double click on the file and it will open in a new window and you can extract the file that way. If that doesn't work, or if you are using an older version of Windows, then you will need to get an unzip program to do this for you. Once the files are extracted they are meant to be used with the modeling software, but the raw data in the files may be viewed with a program such as notepad.
- D. Hyperion Correspondence
[Modeling Inventory Request to Iowa](#) (28 KB pdf) - July 6, 2007
[Modeling Inventory Request to Nebraska](#) (33 KB pdf) - July 6, 2007
[Modeling Potential to Emit Request](#) (55 KB pdf) - July 12, 2007
[DENR's Modeling Potential to Emit Response to Hyperion](#) (63 KB pdf) - July 17, 2007
[Inventory Screening Procedure Submittal](#) (1.1 MB pdf) - July 25, 2007
[DENR's Source Screening Response to Hyperion](#) (41 KB pdf) - July 31, 2007

Modeling Increment Sources Request (69 KB pdf)	- August 20, 2007
DENR's Modeling Increment Sources Response to Hyperion (3.1 MB pdf)	- August 21, 2007
DENR's ESA Consultation Response to Hyperion (33 KB pdf)	- August 24, 2007
Modeling Hourly Emission Rate Request (35 KB pdf)	- August 22, 2007
DENR's Modeling Hourly Emission Rate Response to Hyperion (636 KB pdf)	- August 27, 2007
MACT Determination Request to EPA (239 KB pdf)	- August 23, 2007
NSPS Determination Request to EPA (205 KB pdf)	- August 23, 2007
Follow Up Determination Request to EPA (24 KB pdf)	- September 18, 2007
EPA's MACT and NSPS Determination Response (62 KB pdf)	- September 24, 2007
E. DENR Correspondence	
Modeling Inventory Response to Hyperion (382 KB pdf)	- July 11, 2007
PM 2.5 Emissions Response to Hyperion (24 KB pdf)	- September 14, 2007
Modeling MET data Response to Hyperion (17 KB pdf)	- September 17, 2007
EPA and NPS Application Email (19 KB pdf)	- December 21, 2007
EPA Application Letter (26 KB pdf)	- January 15, 2008
NPS Application Letter (30 KB pdf)	- January 15, 2008
Minnesota Application Letter (25 KB pdf)	- January 17, 2008
Nebraska Application Letter (25 KB pdf)	- January 17, 2008
F. Public Correspondence	
Iowa's Application Notification Request (19 KB pdf)	- August 27, 2007
DENR's Iowa Application Email (19 KB pdf)	- December 21, 2007
Iowa's Application and Modeling Request (30 KB pdf)	- December 26, 2007
DENR's Iowa Application Letter (28 KB pdf)	- January 15, 2008
Nearman Request (103 KB pdf)	- January 10, 2008
Cable Comment (208 KB pdf)	- January 15, 2008
Iowa's BACT Cost Analysis Request (89 KB pdf)	- January 16, 2008

DENR Status

- DENR is performing its preliminary review to determine if the air quality application is complete.

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